

## CCJJ Reorganization Elevates Staff Members

Recent changes have had CCJJ busy reorganizing and streamlining the staff. With Marvin Dodge moving from USAVV to the State Office of Management and Budget, the need to revamp several staff positions is necessary.

Susan Burke, formerly Anti-Violence Coordinator and Juvenile Justice Specialist has been promoted to take Marvin's place as Director of the Utah Substance Abuse and Anti-Violence Coordinating Council. Reg Garff has been promoted from Grants Specialist to replace Susan as the Anti-Violence Coordinator, Juvenile Justice specialist. Executive Director Ed McConkie also announced the promotion of Administrative Assistant, Doreen Weyland to the position of Grants Manager.

"While we will miss Marv's contribution to the Commission on Criminal and Juvenile Justice, I am pleased with the caliber and commitment of these dedicated staffers who will be taking over new responsibilities," according to Ed McConkie,

Executive Director of CCJJ. "The talent and flexibility of these dedicated staff members will make the transition to their new responsibilities as seamless as possible."

Susan V. Burke – As the new Director of the Utah Substance Abuse and Anti-Violence Coordinating Council, Susan's duties will include coordinating with the Council and its committees in creating, disseminating and implementing statewide substance abuse and anti-violence policies. She will also work with the legislature in passing laws that address current public health and safety concerns. Her work will also encompass promoting collaboration between public and private partnerships and the day-to-day management of federal grant programs that fund drug abuse prevention, interdiction and treatment programs throughout Utah.

Reg Garff - Reg will serve in a dual capacity as Anti-Violence Coordinator



Susan V. Burke,  
Director, Utah  
Substance Abuse and  
Anti-Violence  
Coordinating Council  
(USAUV)



Reg Garff,  
Anti-Violence  
Coordinator, Juvenile  
Justice Specialist



Doreen Weyland,  
Grants Specialist

and Juvenile Justice Specialist. He will provide training and technical assistance to local communities on crime violence and gang prevention and intervention strategies. He will manage state gang and crime prevention grants as well as federal juvenile justice grants. He will serve as the specialist for the Utah Board of Juvenile Justice.

Doreen Weyland – Doreen will be the Grants Specialist for the the Commission on Criminal and Juvenile Justice. She will assist sub-grantees who receive Federal Justice Grants and Utah State Grants to provide accurate financial and performance reports. On-site visits with the sub-grantees ensures compliance with pertinent laws, regulations, standards and program integrity. ■



Utah Commission  
on Criminal and  
Juvenile Justice

# FOR THE Record

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## Sentencing Commission Reviews Senate Bill 26

The Utah Sentencing Commission recently completed a study on the implementation of Senate Bill 26, Crime Penalty Adjustments, passed by the Utah Legislature in 1996. Senate Bill 26 repealed mandatory minimum sentences for certain sex offenses while preserving mandatory prison and a lifetime maximum sentence for each offense (see Figure 1.) It also enacted a plea bargain option of attempted aggravated sexual abuse of a child, a non-mandatory prison offense that maintains a lifetime maximum sentence.

Mike Haddon, Utah Commission on Criminal and Juvenile Justice (CCJJ) Director of Research, conducted an

extensive analysis of SB 26 and issued a report to the Sentencing Commission which addresses the following: outcomes in cases where a mandatory prison sex offense was charged, how often mandatory prison sex offense charges are reduced to non-mandatory

### MANDATORY PRISON SEX OFFENSES

- Aggravated Sexual Assault (6, 10, or 15 to Life)
- Aggravated Sexual Abuse of a Child (5 to Life)
- Aggravated Kidnapping (6, 10, or 15 to Life)
- Child Kidnapping (6, 10, or 15 to Life)
- Object Rape of a Child (6, 10, or 15 to Life)
- Attempted Object Rape of a Child (3 to Life)
- Rape of a Child (6, 10, or 15 to Life)
- Attempted Rape of a Child (3 to Life)
- Sodomy on a Child (6, 10, or 15 to Life)
- Attempted Sodomy on a Child (3 to Life)

Figure 1

prison offenses, how often charges of mandatory prison sex offenses are dismissed, how often the non-mandatory plea option of attempted aggravated

sexual abuse of a child is used, and offender pleas. His analysis relied on data drawn from the Court database and included records from 1997 through July 2001. Leif Rundquist, Criminal and Juvenile Justice Consortium, interviewed prosecutors in order to gain an understanding of charging and plea negotiation practices. These two efforts provide a wealth of information on the implementation and success of SB 26. They also identify areas where the Sentencing Commission can focus attention in the coming years. The full report will be available on the Sentencing Commission's web page [www.sentencing.utah.gov](http://www.sentencing.utah.gov) in early December.

The analysis identified 905 cases that contained at least one charge for a mandatory prison sex offense. In 114 of those cases, all charges were ultimately dismissed leaving 791 cases with a mandatory prison sex offense charge. Interviews with prosecutors revealed several reasons

*continued inside*

## Mike Haddon and Gary Franchina Earn Two Prestigious "Hoke" Awards for 2002

Mike Haddon and Gary Franchina, both employees of CCJJ, were named winners of the 2002 Phillip Hoke Award for Statistical Analysis Centers (SAC) in two categories. The first was for their work on the "Shedding Light

*continued inside*



Mike Haddon,  
Director of Research and  
Data for the  
Commission on  
Criminal and  
Juvenile Justice.



Gary Franchina,  
Information Analyst,  
Data and Research Unit  
for the Commission  
on Criminal and  
Juvenile Justice.

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Utah Forfeiture Law

The expectation that drug dealers' forfeited assets would help fund the education of Utah's school children never materialized as was promised by the passage of Initiative B: Property Protection Act of 2000. The Initiative, supported by almost 70% of voters, instead brought forfeitures essentially to a halt.

The Legislature's Law Enforcement and Criminal Justice Interim Committee voted on November 20 to change all that by endorsing a committee bill that would amend Utah's forfeiture law. The amendments are designed to correct some of the unintended consequences of Initiative B.

The supporters of Initiative B intended to protect the rights of innocent owners from having their property seized. The Initiative raised the standard of proof from "probable cause" to "clear and convincing evidence." At the same time, the Initiative, which made changes to 17 sections of Utah law, laid out a forfeiture process that was unwieldy and confusing to even the most experienced prosecutor. In fact, some areas of Initiative B were struck down as unconstitutional.

Initiative B also prohibited law enforcement from accepting seized assets, requiring that all proceeds be deposited in the Uniform School Fund. The proponents of Initiative B were concerned that agencies involved in seizures would have a conflict of interest if they benefited from the seizure. As a result of this prohibition, Utah law enforcement agencies have missed out on more than \$3.3 million in federal equitable sharing over the past two years. In the past, these funds were utilized by law enforcement to enhance their drug suppression activities.

Proposed forfeiture amendments would preserve most of the language in Initiative B as it relates to innocent owners. The bill would additionally include innocent interest holders in the property such as mortgage and lien holders. Other amendments would

clarify the forfeiture process and streamline it. The amendments would also restore the ability of law enforcement to participate in federal equitable sharing.

Local forfeitures would also be handled differently. Rather than having the funds go exclusively to the Uniform School Fund, funds would be shared with the local political subdivision and the Uniform School Fund or the Division of Substance Abuse and Mental Health. For all non-drug related forfeitures, the formula would be 50% local and 50% Uniform School Fund. If the forfeiture was drug-related, then the formula would be 50% local and 50% Division of Substance Abuse and Mental Health. The Division is required to keep those funds in a restricted account that can be used to support drug treatment for offenders such as drug courts.

The bill will now be heard during the 2003 General Legislative Session. Supporters of the bill include the Utah Substance Abuse and Anti-Violence Coordinating Council, the Utah Attorney General's Office, and the Statewide Association of Prosecuting Attorneys. ■

Mike Haddon and Gary Franchina Earn Two Prestigious "Hoke" Awards for 2002 continued

– 2000 Utah Crime Victimization Survey" in the Research/Policy Analysis Category and the second for "Using Data to Address Community Problems" in the Statistical/Management Category.

Mike is Director of Research and Data for the Commission on Criminal and Juvenile Justice. In this capacity, Mike is responsible for organizing and performing research on a variety of adult and juvenile justice research issues.

Gary is an Information Analyst – CCJJ Data and Research Unit and works closely with Mike in organizing and performing a number of research issues.

CCJJ Increases Coordination with Local Planners

With large budget cutbacks passed by the Utah Legislature, it is now more important than ever to ensure open communication channels between the Utah Commission on Criminal and Juvenile Justice (CCJJ) and local governments. According to Ed McConkie, CCJJ Executive Director, enhanced coordination with county governments will assist county prosecutors, policy makers and local planners with their duties.

This increased emphasis comes after the annual CCJJ meeting, where the need for this renewed effort in communication was aired. The focus will be to provide each county with a statewide count of secure beds from both corrections and jails. Also on the list of topics was how to coordinate budgets so there is synergy in each county's efforts to set policy, and to help enforce the law. ■

The Phillip Hoke Award recognizes outstanding efforts to bring empirical analysis to bear on criminal justice policymaking.

Phillip Hoke was one of the founders of the Justice Research and Statistics Association, then called the Criminal Justice Statistics Association, and served as first vice president and then president of the Association. He was responsible for merging operations with analysis, and set an example for his colleagues to live up to in his concern for developing information systems that could generate useful and high-quality reports.

The SAC publication contest is competitive, with each report being rated by three judges. ■

Sentencing Commission Reviews Senate Bill 26 continued

why all charges would be dismissed. These include:

- evidentiary problems
- prosecutor becomes convinced of defendant's innocence
- charges filed prematurely
- lack of resources available to the prosecution.

Figure 2 depicts the outcomes of the 791 cases that retained a charge for at least one mandatory prison sex offense. Of these cases, 382 (48.3%) resulted in an adjudication for a mandatory prison sex offense (lifetime

These results are encouraging as they indicate success in a number of areas. First, nearly half of the cases that began with a mandatory prison sex offense charge (and did not have all charges dismissed) resulted in an adjudication for a mandatory prison sex offense. Second, two-thirds of cases that began with a mandatory prison sex offense charge (and did not have all charges dismissed) resulted in an adjudication for an offense with a lifetime maximum sentence. Third, attempted aggravated sexual abuse of a child is a viable plea option as demonstrated by its use in at least 112 cases. However, interviews suggested that some prose-

- Of the cases that had a mandatory prison sex offense charge after charges were reduced or otherwise modified, 85% retained a first degree felony as the highest level charge not dismissed from the case.
- Prosecutors sometimes combine the strategies of reducing and dismissing charges in the same case.
- Offenders pled guilty to approximately 62% of the mandatory prison sex offense charges.
- Of the charges leading to a not guilty plea, 73.8% were dismissed and over 20% resulted in findings of guilt.

Other findings from interviews with prosecutors include:

- The sex offender registry is irrelevant in determining an initial charge but is considered during plea negotiations.
- The most common plea negotiation involves dismissal of several counts if the defendant pleads guilty to the most serious charge.
- Approaches to filing multiple charges in a single case vary significantly and include filing a representative amount, determining how to get the "biggest bang for the buck," filing as many charges as possible, and a formulaic approach.
- Most, but not all, prosecutors felt that it is important to maintain a first-degree felony charge during the plea negotiation process to preserve the lifetime maximum sentence.

The Sentencing Commission will continue to analyze this study to identify further training needs or additional changes that might be necessary. However, results indicate successful implementation of SB 26 and support the policy of repealing mandatory minimum sentences while maintaining mandatory prison and lifetime maximum sentences. ■

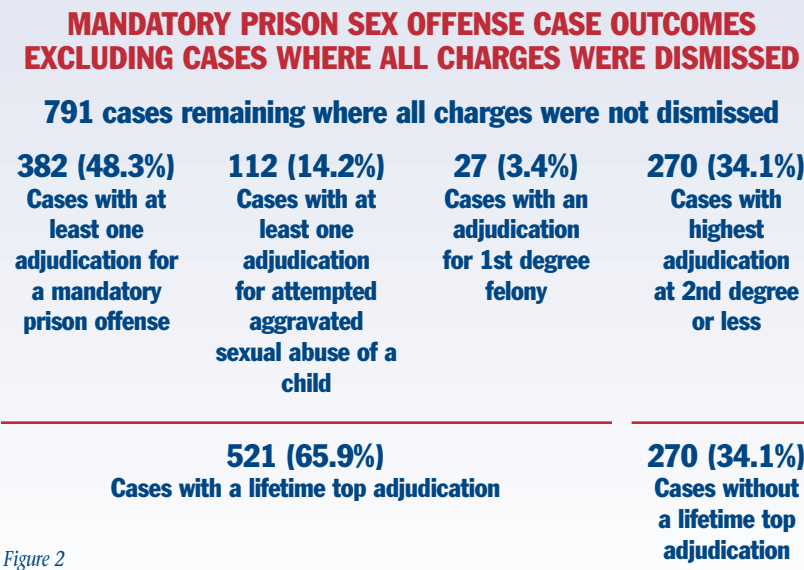


Figure 2

maximum sentence); 112 (14.2%) resulted in an adjudication for attempted aggravated sexual abuse of a child (lifetime maximum sentence); 27 (3.4%) resulted in an adjudication for some other first degree felony (lifetime maximum sentence); and 270 (34.1%) resulted in an adjudication for an offense less than a first degree felony (maximum of less than life in prison). This means that 521 cases (65.9%) resulted in adjudication for an offense with a lifetime maximum sentence.

cutors are unaware of the existence of attempted aggravated sexual abuse of a child as a plea bargain option suggesting that the Sentencing Commission can do more to educate prosecutors on this possible charge.

Analysis of the 905 cases involving a charge for a mandatory prison sex offense revealed several other interesting facts.

- Of the 456 cases that had at least one charge for an initial mandatory prison sex offense reduced at some point, 55% retained a first degree felony charge.